



PROFESSIONAL ADVICE

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This month, the Tourist seeks professional advice.

Cyberspace Law for Non-Lawyers • www.ssrn.com/update/lsn/cyberspace/csl_lessons.html

Lawrence Lessig, David Post, and Eugene Volokh

For legal advice, the Spider turned to Lawrence Lessig et al. for their course, "Cyberspace Law for Non-Lawyers." The course consists of 80 "lessons," each about 500 words. The authors assert that cyberspace presents "a host of new and difficult legal questions in many areas" and illustrate these difficulties in six areas: copyright, privacy, trademark, libel, free expression, and contracting. They also discuss the now (mostly) defunct Communications Decency Act of 1996 and point at a moribund site discussing dispute resolution in cyberspace. They note that "development of legal rules that will govern activity in this new environment is likely to be a complex, and at times a controversial, process." Being American law professors, they focus primarily on U.S. law.

You might remember Lessig. He had his 15 minutes of fame a little over a year ago, being disqualified as special master from the Microsoft

antitrust case for having an opinion about Microsoft software. This is sort of the techie equivalent of being barred from the O.J. jury.

Lessig, Post, and Volokh teach that

- Copyright is about presentation, not facts or ideas. Everything is copyrighted. (You don't have to apply to the government for a copyright. Merely fixing an expression in concrete form creates one.) Copying, unless exempted by "fair use" or "implied license," is probably violating someone's copyright. Fair use lets you quote something in certain situations (for example,
- You have little legal right to privacy. Sites can record your visits, correlate them with your visits to other sites, and use and distribute the information to their heart's content. In a surfer's version of Trojan horse, it's likely to be legal to set up a pornography or gay-oriented site, collect user names, and then publish a list of visitors. E-mail has certain legal protections but using your employer's machine probably lets your employer read your mail.
- Trademark law on Internet domain names is still undecided. (See Loundy, below.)
- Don't expect to be able to sue an Internet service provider for libel when someone flames you in a discussion group, unless the ISP is dumb enough to claim it enforces civility.
- Free speech means the government can't restrict what you say, except in a few situations: when

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	4 Flies = Tasty
	3 Flies = Filling
	2 Flies = Edible
	1 Fly = Yuck!

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the government is paying for the speech, if you're a child in public school, when the restriction is not based on the content of the speech (a tax on bandwidth might be legal), or if the restriction is "narrowly tailored" to a "compelling government interest." Restrictions on publishing wartime troop movements are narrowly tailored to a compelling government interest. Whether restrictions on publishing indecent material that children might see are narrowly tailored to a compelling government interest is still under debate. (And will continue to be debated as long as lawmakers can score political points by passing constitutionally dubious laws.) You're entitled to say things anonymously, but don't expect your ISP to fight a court order (or even warn you of a court order) that seeks to uncloak you.

- U.S. contracts call for an offer, an acceptance, and "an exchange of consideration" (actually giving something of value to someone). Nothing precludes doing these things over the Internet through "clickwrap" offers. (Click here and you've agreed to the 47 pages of fine print you haven't read.)

I found the overall discussion to be eminently readable and a good introduction to Internet legal issues, but a trifle dated. For a more comprehensive discussion of copyright, I suggest "An Introduction to Copyright Law," by David G. Post and Thomas R. Trempus (<http://www.temple.edu/lawschool/dpost/copyrit.htm>). For a more up-to-date discussion of trademarks and what you can call your domain, try "A Primer on Trademark Law and Internet Addresses," by David J. Loundy (<http://www.Loundy.com/JMLS-Trademark.html>). Cyberspace law in general is the subject of the Cyberspace Law Institute (<http://www.cli.org>).



The Spider next visited the doctor.

Dr. HTML • www2.imagiware.com/RxHTML/

Doctor HTML will read your (Internet-accessible) Web page and point out its faults. What's not to like? The Doctor checks your spelling, reports on the time it will take to load your images over a slow modem, points out nonstandard HTML codes, fingers poor image syntax, cites incorrectly formatted tables and forms, and verifies all hyperlinks. The site provides a facility somewhere between a useful tool and a demo—you can do a full-featured check of four pages per session. Imagiware will sell you a full version to run at home.

I tried Dr. HTML on a few random pages. I like the spell-checking on my text editor better, and Dr. HTML didn't find any structural problems with the sample pages. However, the system did provide a useful list of missing links.

